

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

IRISH 4 REPRODUCTIVE)	
HEALTH, <i>et al.</i> ,)	
Plaintiffs,)	
)	
v.)	Cause No.: 3:18-CV-491-PPS-JEM
)	
UNITED STATES DEPARTMENT OF)	
HEALTH AND HUMAN)	
SERVICES, <i>et al.</i> ,)	
Defendants.)	

ORDER

This matter is before the Court on the Federal Defendants’ Motion to Stay Proceedings [DE 85], filed on February 5, 2020. The Federal Defendants in this case seek to stay the case until a related case is resolved by the Supreme Court. Plaintiffs responded in objection on February 19, 2020, and the Federal Defendants replied on February 26, 2020.

In the instant case, Plaintiffs challenge the Final Rules promulgated by the Departments of Health and Human Services, Labor, and the Treasury expanding exemptions to the contraceptive coverage requirement of the Affordable Care Act. Plaintiffs also challenge the government’s settlement agreement with Defendant University of Notre Dame resolving prior litigation involving the contraceptive requirement. The Final Rules have been preliminarily enjoined, and the Supreme Court granted certiorari to review the decision of the Third Circuit Court of Appeals upholding the injunction. The Federal Defendants now seek to stay the case until the Supreme Court’s decision in *Trump v. Pennsylvania*, Case No. 19-454, is released.

The power to stay proceedings is “incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Texas Indep. Producers & Royalty Owners Ass’n v. E.P.A.*, 410 F.3d 964, 980 (7th

Cir. 2005) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936)). In considering a stay, courts weigh factors such as prejudice or hardship to the non-moving party, judicial economy, and whether a stay will simplify the issues and streamline the trial. *Tonn & Blank Const., LLC v. Sebelius*, 968 F. Supp. 2d 990, 993 (N.D. Ind. 2013).

In support of a stay, the Federal Defendants argue that the Supreme Court’s decision could resolve or substantially clarify the issues in this case. Plaintiffs argue that the Supreme Court’s decision will not be dispositive, that their claims are broader than what is at issue in the Supreme Court case, and that a stay will harm them because individuals covered by Notre Dame’s health insurance plan will continue to pay out-of-pocket for contraceptive coverage until this issue is resolved.

While the Supreme Court’s decision may not be dispositive in this matter, it may limit the issues raised or provide direction on the legal standards to be applied. *See Tonn & Blank Const., LLC*, 968 F. Supp. at 993 (granting a stay where a pending decision by the Seventh Circuit Court of Appeals would “overlap with the substantive legal issues” of the plaintiff’s challenge to the contraceptive mandate); *Lincoln Nat’l Life Ins. Co. v. Transamerica Fin. Life Ins. Co.*, No. 1:08-cv-135, 2010 WL 567993, at *1 (N.D. Ind. Feb. 12, 2010) (staying case pending Supreme Court decision that would provide “direction on the precise standard to be applied” in evaluating the claims of that case). At least three other cases involving challenges to the Final Rules have been stayed.¹

Federal Defendants state that the Supreme Court’s decision is expected by June 2020, indicating about four months’ delay. Since their motion was filed, oral argument has been postponed

¹ *Massachusetts v. HHS*, No. 17-cv-11930-NMG (D. Mass. Feb. 7, 2020) [DE 132]; *California v. HHS*, 4:17-cv-5783 (Jan. 22, 2020) [DE 411]; *Pennsylvania v. Trump*, No. 17-cv-4540 (E.D. Pa. July 31, 2019) [DE 232].

from April 29, 2020 to early May. *See* Order, Case No. 19-454 (April 3, 2020); https://www.supremecourt.gov/publicinfo/press/pressreleases/pr_04-13-20 (accessed April 14, 2020). While Plaintiffs object to the delay in resolving this case, the stay should be relatively brief, and has the potential to clarify the issues and conserve the parties' and the Court's resources.

For the reasons described above, the Court hereby **GRANTS** Federal Defendants' Motion to Stay Proceedings [DE 85], **ORDERS** that this case is **STAYED** pending the Supreme Court's decision in *Trump v. Pennsylvania*, Case No. 19-454, and **ORDERS** the parties to file a status report within 14 days of the decision.

SO ORDERED this 15th day of April, 2020.

s/ John E. Martin
MAGISTRATE JUDGE JOHN E. MARTIN
UNITED STATES DISTRICT COURT

cc: All counsel of record